
HOUSE BILL No. 1254

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10-8; IC 3-11-4-4; IC 3-13.

Synopsis: Runoff elections for municipal offices. Requires holding a runoff election as a special election if none of the candidates for nomination for a municipal office receives more than 50% of the votes cast in the primary election. Requires holding a runoff election as a special election if none of the candidates for election to a municipal office receives more than 50% of the votes cast in the general or municipal election.

Effective: July 1, 2003.

Smith V, Brown C

January 13, 2003, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1254

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-10-8-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 1. A special election shall be held
3 in the following cases:

4 (1) Whenever two (2) or more candidates for a federal, state,
5 legislative, circuit, or school board office receive the highest and
6 an equal number of votes for the office, except as provided in
7 Article 5, Section 5 of the Constitution of the State of Indiana or
8 in IC 20.

9 (2) Whenever a vacancy occurs in the office of United States
10 Senator as provided in IC 3-13-3-1.

11 (3) Whenever a vacancy occurs in the office of United States
12 Representative, unless the vacancy occurs less than thirty (30)
13 days before a general election.

14 (4) Whenever a vacancy occurs in any local office the filling of
15 which is not otherwise provided by law.

16 (5) Whenever required by law for a public question.

17 (6) Whenever ordered by a court under IC 3-12-8-17 or the state



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recount commission under IC 3-12-11-18.

(7) Whenever required under section 10 of this chapter.

SECTION 2. IC 3-10-8-3 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **Except as provided in section 10 of this chapter**, the governor, court, or state recount commission shall order a special election under this chapter by issuing a writ of election directed to the circuit court clerk of each county located wholly or partially within the election district.

(b) The writ must specify:

- (1) the election district in which the election is to be held;
- (2) the cause and object of the election;
- (3) the name of the person whose office is vacant; and
- (4) the day on which the election will be held.

(c) A special election to be held in an election district situated in two (2) or more counties shall be held on the same day in each county.

SECTION 3. IC 3-10-8-5 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Special elections are governed by other provisions of this title as far as applicable.

(b) Except as provided in section 7 **or 10** of this chapter, IC 3-12-8-17, or IC 3-12-11-18, candidates in special elections shall be nominated in the same manner as candidates are nominated:

- (1) to fill vacancies on the ballot under IC 3-13-1 or IC 3-13-2; or
- (2) under IC 3-8-6, if a candidate does not intend to affiliate with a regular political party or represents a political party not qualified to nominate candidates at a primary election or by convention.

SECTION 4. IC 3-10-8-10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. (a) A special election shall be held under this section whenever both subdivisions (1) and (2) apply:**

(1) There has been:

- (A) a primary election to nominate candidates for election to a municipal office; or**
- (B) a general or municipal election to fill a municipal office.**

(2) No candidate in the election referred to in subdivision (1) received more than fifty percent (50%) of the votes cast in the election.

(b) If a recount of the votes cast in the primary, general, or municipal election does not change the result of the primary, general, or municipal election as described in subsection (a)(2), the special election held under this section shall be held on the ninth

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Tuesday after the primary, general, or municipal election. The circuit court clerk of the county containing the greatest percentage of the population of the election district shall issue a writ of election directed to the circuit court clerk of each county containing any part of the election district. The writ must contain the information required to be contained in a writ of election under section 3(b) of this chapter.

(c) Only the candidate who received the greatest number of votes and the candidate who received the next greatest number of votes in the primary, general, or municipal election may be candidates in a special election held under this section.

(d) The candidate who receives the greatest number of votes in a special election held under this section is considered to be:

- (1) the candidate nominated by the candidate's party in the primary election; or
- (2) the candidate elected to the office in the general or municipal election.

(e) If a candidate vacancy among the candidates on the ballot in a special election held under this section leaves only one (1) candidate remaining, the remaining candidate is considered to be:

- (1) the candidate nominated by the candidate's party in the primary election; or
- (2) the candidate elected to the office in the general or municipal election.

(f) The municipality shall pay the costs of a special election held under this section.

SECTION 5. IC 3-11-4-4, AS AMENDED BY P.L.126-2002, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Applications may be made:

- (1) in person;
- (2) by fax transmission; or
- (3) by mail;

on application forms furnished by the county election board or approved by the commission.

(b) Application forms shall:

- (1) be furnished to all central committees in the county ~~no~~ not later than:

(A) June 15, for a general election or a special election ordered under IC 3-10-8-10, IC 3-12-8-17 or IC 3-12-11-18 following the primary election;

(B) December 15, for a special election ordered under IC 3-10-8-10 following the general or municipal election;



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- 1 or
 2 ~~(B)~~ (C) January 15, for a primary election or a special election
 3 ordered under IC 3-12-8-17 or IC 3-12-11-18 following the
 4 general election;
 5 (2) be:
 6 (A) mailed; or
 7 (B) transmitted by fax;
 8 upon request, to a voter applying by mail, by telephone, or by fax;
 9 and
 10 (3) be delivered to a voter in person who applies at the circuit
 11 court clerk's office.
 12 (c) The county election board shall:
 13 (1) accept; and
 14 (2) transmit;
 15 applications for absentee ballots under subsection (a) by fax. A county
 16 election board shall accept an application for an absentee ballot
 17 transmitted by fax even though the application is delivered to the
 18 county election board by a person other than the person submitting the
 19 application.
 20 SECTION 6. IC 3-13-1-1 IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a)** Except as provided in
 22 **subsection (b) or** section 18 or 20 of this chapter, this chapter applies
 23 to the filling of a candidate vacancy that arises for any reason if the
 24 vacancy leaves a major political party without a candidate for the office
 25 and occurs before the thirtieth day before a general, special, or
 26 municipal election.
 27 **(b) This chapter does not apply when there is a candidate**
 28 **vacancy in a special election held under IC 3-10-8-10.**
 29 SECTION 7. IC 3-13-1-17 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. **(a) This section**
 31 **does not apply if a special election is required under IC 3-10-8-10.**
 32 **(b)** A candidate vacancy exists when a tie vote occurs for an office
 33 in a primary election. The candidate vacancy shall be filled under
 34 section 3, 4, 5, or 6 of this chapter.
 35 SECTION 8. IC 3-13-2-1 IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a) Except as provided in**
 37 **subsection (b),** this chapter applies to the filling of a candidate vacancy
 38 that exists due to the:
 39 (1) death of a political party's candidate;
 40 (2) withdrawal of a candidate who has moved from the election
 41 district;
 42 (3) disqualification of a candidate under IC 3-8-1-5; or



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1 (4) issuance of a court order under IC 3-8-7-29(d);
2 for nomination or election to an office at a general, municipal, or
3 special election after the thirty-first day before a general, municipal, or
4 special election.

5 (b) **This chapter does not apply to a candidate vacancy that**
6 **exists in a special election held under IC 3-10-8-10.**

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